

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

TIMOTHY GERRARD,)	
)	Case No.
Plaintiff,)	
)	Judge
v.)	
)	Removed from the Chancery Court of
INGERSOLL-RAND COMPANY,)	Wilson County, Tennessee
)	(Case No. 11CV503)
Defendant.)	
)	

NOTICE OF REMOVAL

Defendant, Ingersoll-Rand Company, ("Ingersoll-Rand"), pursuant to the provisions of 28 U.S.C.A. §§ 1332, 1441, and 1446, through its undersigned counsel, respectfully submits this Notice of Removal for the purpose of removing the above-captioned action from the Chancery Court of Wilson County, Tennessee, at Lebanon, to the United States District Court for the Middle District of Tennessee, Nashville Division. As grounds for this Notice of Removal, Ingersoll-Rand states as follows:

1. On November 9, 2011, Plaintiff, Timothy Gerrard (the "Plaintiff"), filed a Complaint (the "Complaint") commencing the action styled TIMOTHY GERRARD v. INGERSOLL-RAND COMPANY in the Chancery Court of Wilson County, Tennessee, at Lebanon, Case No. 11CV503. A copy of the Summons and Complaint Ingersoll-Rand received is collectively attached hereto and marked **Exhibit A**.

2. Defendant Ingersoll-Rand was served with process on December 20, 2011, a date less than thirty (30) days before the filing of this Notice of Removal.

3. This action is a civil action of which this Court has original jurisdiction under 28 U.S.C.A. § 1332(a)(1), and is one which may be removed to this Court by Ingersoll-Rand pursuant to the provisions of 28 U.S.C.A. §§ 1441 and 1446.

4. This action is removable on the basis of diversity of citizenship pursuant to 28 U.S.C.A. § 1332(a)(1). Plaintiff's Complaint reflects that he is a resident and citizen of Lebanon, Wilson County, Tennessee. (**Compl.** ¶ 1.). Defendant Ingersoll-Rand is a foreign corporation existing pursuant to the laws of New Jersey with its principal place of business¹ in New Jersey.

5. In addition to attorney's fees and costs, discretionary costs, and other relief to which Plaintiff may be entitled, Plaintiff seeks monetary relief, in the amount of one hundred fifty thousand dollars (\$150,000.00) as compensatory damages and one hundred fifty thousand dollars (\$150,000.00) as punitive damages. Thus, it is without question that the amount in controversy exceeds \$75,000.00 pursuant to 28 U.S.C.A. § 1332(a). Based upon the foregoing, this action is subject to removal pursuant to 28 U.S.C.A. § 1441.

6. Specifically, section 1441(a) specifies that "any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or defendants to the district court of the United States for the district and division embracing the place where such action is pending." Thus, this action is properly removable.

7. This lawsuit has also been properly removed to this district court as 28 U.S.C.A. § 1446(a) specifies that the notice of removal shall be filed in the district court of

¹ The "'principal place of business' is best read as referring to the place where a corporation's officers direct, control, and coordinate the corporation's activities. It is the place that Courts of Appeals have called the corporation's 'nerve center.'" *Hertz Corp. v. Friend*, 130 S. Ct. 1181 (2010).

the United States for the district and division within which such action is pending. Pursuant to 28 U.S.C.A. § 123(b)(1), this district and division encompasses Wilson County, where the action was pending prior to removal.

8. Pursuant to 28 U.S.C.A. § 1446(d), Ingersoll-Rand will promptly file a Notice of Filing of Notice of Removal with the Clerk of the Chancery Court of Wilson County, Tennessee, with a copy to be served on Plaintiff's counsel. A copy of the Notice of Filing of Notice of Removal is attached hereto as **Exhibit B**.

By removing this action to this Court, Ingersoll-Rand does not waive any defenses, objections or motions available to it under state and federal law.

WHEREFORE, Defendant Ingersoll-Rand, pursuant to 28 U.S.C.A. §§ 1441 and 1446 respectfully submits, based upon the allegations set forth in this Notice of Removal, that this action is properly removed and requests that this Court retain jurisdiction over this action.

Respectfully submitted,

/s/ William S. Rutchow

William S. Rutchow, TN Bar No. 017183

Jessica T. Patrick, TN Bar No. 28039

OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.

SunTrust Plaza

401 Commerce Street, Suite 1200

Nashville, TN 37219-2446

Telephone: 615.254.1900

Facsimile: 615.254.1908

Attorneys for Defendant Ingersoll-Rand Company

CERTIFICATE OF SERVICE

I hereby certify that on this the 19th day of January, 2012, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon the following:

MICHAEL D. PONCE & ASSOCIATES
Nina Parsley
1000 Jackson Road, Suite 225
Goodlettsville, TN 37072

/s/ William S. Rutchow

11372087.1 (OGLETREE)